

New Jersey State Tax News

Spring 1996

inside

<i>NJ declares tax amnesty.....</i>	<i>1</i>
<i>important phone numbers</i>	<i>2</i>
<i>compliance efforts</i>	<i>2</i>
<i>NOL after merger</i>	<i>3</i>
<i>interest 11.75%</i>	<i>3</i>
<i>corporation tax credits.....</i>	<i>3</i>
<i>delivery services</i>	<i>4</i>
<i>joint ventures.....</i>	<i>4</i>
<i>LIFO recapture.....</i>	<i>4</i>
<i>domicile</i>	<i>5</i>
<i>new imaging system</i>	<i>6</i>
<i>teletype pilot program</i>	<i>6</i>
<i>1995 court decisions</i>	<i>7</i>
<i>tax assessors' calendar</i>	<i>8</i>
<i>criminal enforcement</i>	<i>9</i>
<i>enforcement summary</i>	<i>11</i>
<i>tax briefs.....</i>	<i>11</i>
<i>seized business list.....</i>	<i>13-14</i>
<i>auctioned business list.....</i>	<i>15</i>
<i>in our courts</i>	<i>17</i>
<i>in our legislature</i>	<i>19</i>
<i>tax calendar</i>	<i>22</i>
<i>from the director's desk</i>	<i>24</i>

In the center of this issue:

- Index for 1995 (Volume 24)
- List of 1995 tax legislation



No Penalties. No Interest. No Kidding.

The State of New Jersey recently enacted a law (P.L. 1996, c.2) allowing for the payment of tax liabilities for State taxes administered and collected by the Division of Taxation, with no penalties, no interest, no cost of collection or the imposition of any civil or criminal penalties. The Amnesty Program will begin March 15, 1996 and will end June 1, 1996.

Tax Amnesty is part of an overall effort to increase compliance with State tax laws. The Amnesty program will provide for an increase in the collection process; reduction of backlogs of both deficient and delinquent taxpayers; identify new taxpayers not on our rolls; and provide an opportunity for anyone behind in their taxes to get back on the tax rolls in good shape.

State tax liabilities for tax returns due on and after January 1, 1987 and prior to January 1, 1996 are eligible for Amnesty. The law contains a provision for the imposition of a 5% penalty at the conclusion of the Amnesty period which shall not be subject to waiver or abatement, in addition to all other penalties, interest and cost of collection otherwise authorized by law.

Amnesty covers all State taxes payable to the New Jersey Division of Taxation including the Corporation Business Tax, Sales and Use Tax and Gross Income Tax. Amnesty does not cover taxes not administered and collected by the Division of Taxation such as

continued on page 2

tax amnesty - from page 1

local property tax, realty transfer fees and Federal liabilities.

The State will mail notices to approximately 600,000 individuals and businesses who currently owe the State back taxes. The State also plans to undertake a full-scale public awareness campaign that includes television, radio and print advertising, general information brochures and posters.

The Division is operating a special toll-free Amnesty hotline, 800-286-6613, that the public can call for information or materials.

The forms needed to file for Amnesty may also be obtained by:

- Calling the Division's TaxFax telephone number, 609-588-4500. You must call from your fax machine and the forms will be faxed to you.

- Accessing New Jersey's Internet Home Page at <http://www.state.nj.us/treasury/taxation/>.

- Visiting one of our Regional Offices.

You may also write to:

NEW JERSEY DIVISION OF TAXATION
AMNESTY FORMS REQUEST
CN 900
TRENTON NJ 08646-0900

Organizations that would like to distribute pamphlets or other informational materials to their clients, or who would like a Division representative to speak to their group, can contact the Amnesty hotline at 800-286-6613. □

Compliance Efforts Continuing

Part of the mission of the Division of Taxation has always been to monitor the compliance of individuals and businesses with the various taxing statutes.

In the past the Division has conducted compliance audits on individual taxpayers and businesses and has also identified groups of taxpayers for audit. For example, in a joint audit with the IRS, the Division identified and contacted accountants who had not filed returns.

Currently, in one project, field auditors are auditing liquor stores and restaurants for compliance with Sales and Use Tax, Gross Income Tax withholdings and corporation taxes.

Ongoing audits by the Gross Income Tax Audit Branch investigate the filing responsibilities of nonresidents who have New Jersey source income. Individuals

who have business contacts with New Jersey through partnership or S corporation ownership are reminded to file nonresident returns indicating the income allocated to New Jersey through those businesses. Likewise, if an individual comes into New Jersey to perform at a New Jersey venue, to sell crafts at a show, to lecture at a seminar, or to do any work for

continued on page 3

New Jersey State Tax news

is published by the:

**New Jersey Division of Taxation
Technical Services
Taxpayer Services Branch
Office of Communication
CN 281
Trenton, NJ 08646-0281**

Division of Taxation Director:
Richard D. Gardinar

News Coordinators for This Issue:

<i>Field Audit</i>	Frank Higgins
<i>Office Audit</i>	Joshephine Comfort
<i>Compliance</i>	Marita Sciarrotta
<i>Criminal Investigation</i>	Susan Kamp
<i>Legislative Analysis</i>	Jerry Byrne
<i>Property Admin.</i>	Gary Amerine
<i>Tax Services</i>	Arthur Guenther
<i>Technical Services</i>	Allette Wooley

Contributors: Harris Adams, Dorothy M. Aicher, Elizabeth S. Ashton, Al Barber, Susan Dobay, Joseph A. Flynn, Lawrence Gauges, Richard Gostine, Howard Greenberg, John Hussey, Denise M. Lambert, Peter Lowicki, Wanda Y. Mabray, John M. Metzger, Joanne M. Monte, Sara E. Murphey, Anthony Oscilowski, Carolyn J. Osowski, Richard W. Schrader, Mitchell C. Smith, Ella Stubbs, Carol M. Trovato, Patricia Wright.

Editor: Linda B. Hickey

Important phone numbers

Tax Hotline.....	609-588-2200
Recorded Tax Topics.....	800-323-4400
Speaker Programs.....	609-984-4101
NJ TaxFax.....	609-588-4500
Alcoholic Bev. Tax.....	609-984-4121
Corporate Mergers, Withdrawals & Dissolutions.....	609-292-5323
Corporate Tax Liens.....	609-292-5323
Director's Office.....	609-292-5185
Inheritance Tax.....	609-292-5033
	609-292-5035
	609-292-7221
Local Property Tax.....	609-292-7221
Motor Fuels Tax Refunds.....	609-292-7018
Public Utility Tax.....	609-633-2576
Tax. Registration.....	609-292-1730

compliance efforts - from page 2

which they receive income, he has a responsibility to file a nonresident return with the Division and pay taxes on the income earned in New Jersey.

With the Division's constant attention to compliance, any taxpayer or business that has not heretofore filed and paid associated taxes to New Jersey would do well to do so *before* the Division contacts them.

Whether the Division contacts groups of taxpayers in specific projects or identifies individual nonfilers, the Division will continue to serve all New Jersey taxpayers by diligently adding new taxpayers to the tax rolls to ensure that all persons pay their correct portion. □

CORPORATION TAX **Net Operating** **Loss After Merger**

In *Richard's Auto City, Inc. v. Director, Division of Taxation*, New Jersey Supreme Court, 140 N.J. 523, decided June 21, 1995, the New Jersey Supreme Court reversed a judgment of the Appellate Division and reinstated the order of the Tax Court in favor of the Division, upholding the validity of N.J.A.C. 18:7-5.13(b).

Richard's Auto City, Inc., a New Jersey corporation, claimed on its 1986 Corporation Business Tax return a deduction for net operating losses (NOL's) incurred by its leasing subsidiary, Catena, Inc., during the years 1984, 1985 and 1986. Catena, Inc. was merged into Richard's Auto City in December 1986. The Director denied the deduction on the basis of N.J.A.C. 18:7-5.13(b). N.J.A.C. 18:7-

5.13(b) provides that a net operating loss may only be carried over by the actual corporation that sustained the loss.

The Court stated that the language of N.J.S.A. 54:10A-4(k)(6), which provides for net operating loss carryovers, did not indicate a legislative intent to allow the transfer of tax deductions from an acquired corporation to the surviving corporation after a merger. The Court rejected the argument that the legislature intended to adopt the Federal tax scheme which allows for the carryover of NOL's by the surviving corporation. The Court also found that provisions of the Business Corporation Act, N.J.S.A. 14A:1-1 et seq., requiring the transfer of corporate attributes from an acquired corporation to a surviving corporation in a merger, were not to be read *in pari materia* with the Corporation Business Tax Act and therefore did not support the argument that a surviving corporation can use the tax deductions of a merged corporation. Finally, the Court ruled that the regulation applied retroactively to the effective date of the Corporation Business Tax Act provisions allowing for deduction of NOL's. □

CORPORATION TAX **Corporation Tax** **Credits**

A recent inquiry was made regarding the verification method used to document the net increase in employment required under the Manufacturing Equipment and Employment Investment Tax Credit (MEEITC). The taxpayer further questioned the criteria needed to prove the direct relationship between the manufacturing

equipment placed in service and the increase in employment.

The **Employment Investment** portion of the credit is valid for each of the two tax years next succeeding the tax year for which the Manufacturing Equipment credit is allowed, but is limited to 3% of the investment credit base, not to exceed a maximum allowed amount for each of the two tax years of \$1,000 multiplied by the increase in the average number of qualified employees.

The calculations for the credit are based on the increase in the average number of full-time employees and employee equivalents residing and domiciled in New Jersey employed at work locations in New Jersey from the employment base year to the employment measurement year.

Full-time employee means a New Jersey domiciled resident working

continued on page 4

Interest 11.75% for **Fourth Quarter**

The interest rate assessed on amounts due for the first quarter of 1996 is 11.75%.

The assessed interest rate history for the last eight quarters is listed below.

Effective Date	Interest Rate
4/1/94	9%
7/1/94	9%
10/1/94	9%
1/1/95	11.5%
4/1/95	11.5%
7/1/95	11.5%
10/1/95	11.5%
1/1/96	11.75%

tax credits - from page 3

for the taxpayer for at least 140 hours per month at a wage not less than the State or Federal minimum wage. In calculating the average, part-time employee hours may be aggregated to determine **full-time equivalents** (140 hours equals one full-time employee equivalent) provided the part-time employee has worked for the taxpayer for at least 20 hours per week for at least six months during the tax year.

To claim the employment portion of the credit, the taxpayer is not required to show any relationship between the purchase of manufacturing equipment and the increase in employment beyond the calculation required to determine the size of the credit. The calculation itself will generally indicate the relationship between the equipment and the increase in employment. The employment credit is limited to 3% of the "investment credit base," which is defined in N.J.S.A. 54:10A-5.17 as the cost of the qualified equipment. "Qualified equipment" is further defined as equipment purchased for manufacturing. The taxpayer should maintain employment records to support the claimed credit.

For additional information on the MEEITC, see "Tax Briefs" on page 12. □

CORPORATION TAX ***Delivery Services***

The Division of Taxation has clarified its position regarding delivery of goods into the State by Non-Transportation and/or Delivery Service Companies for Corporation Business Tax purposes.

Any corporation **not** in the business of delivery or transport of goods (such as manufacturers, wholesalers, etc.) who delivers "their own" products in their own trucks to customers in New Jersey is deemed to be "doing business" in New Jersey pursuant to N.J.A.C. 18:7-1.9(b).

However, if the activities do **not** exceed mere delivery, this corporation would be protected under P.L. 86, c.272 and the minimum corporate tax would be due. Some of the activities that are considered to be beyond mere delivery would be pick-up, set-up, installation, removal, pouring, and inserting.

Any questions regarding delivery for Corporation Business Tax purposes should be directed (in writing) to:

NEW JERSEY DIVISION OF TAXATION
NEXUS AUDIT GROUP
CN 264
TRENTON NJ 08646-0264 □

CORPORATION TAX ***Joint Ventures***

Inquiries have been received by the Division regarding factor representation of joint venture interests for Corporation Business Tax purposes. Since joint ventures are not separate legal entities for New Jersey tax purposes (see *Wittner v. Metzger*, 72 N.J. Super. 438, App. Div. 1962), the pro rata share of joint venture real and tangible personal property, receipts and wages

both within and without New Jersey must be included in determining the corporate business allocation factor of the venturer. Similarly, the proportionate share of income and expense must be included in the co-venturer's taxable net income. This reflects the Division's historical position which is independent of any unitary/non-unitary analysis in a particular case. A copy of Federal Form 1065 should be included when filing the return. □

CORPORATION TAX ***LIFO Recapture***

In accordance with Section 1363(d) of the Internal Revenue Code, a C corporation using the LIFO inventory method must include in its taxable income the LIFO recapture on its last C return.

The LIFO recapture is the excess of its inventory valued by using the FIFO method over LIFO at the end of its last year as a C corporation. The additional Federal tax resulting therefrom is payable in

continued on page 5

Electronic Filing

- ◆ Are you filing Federal income tax returns electronically?
- ◆ Would you like to file New Jersey income tax returns electronically?

Beginning in 1996 (1995 tax returns), the New Jersey Division of Taxation will accept electronically filed income tax returns.

For additional information, call the Division's Hotline at (609) 588-2200 or write New Jersey Division of Taxation, ELF, CN 191, Trenton, NJ 08646-0191.

LIFO recapture - from page 4

four equal installments. The Code requires that Federal Schedule J (tax computation) reflect the tax based on income that includes the LIFO recapture with a note indicating the Section 1363(d) deferral. These (three) remaining Federal installments are to be paid with each subsequent S corporation return by inclusion on line 22c with a note indicating "LIFO TAX."

The Code defers the payment of the additional tax but not the reporting of the income resulting from the recapture.

Section 4(k) of the New Jersey Corporation Business Tax Act states that "a taxpayer's entire net income shall be deemed prima facie to be equal in amount to the taxable income, before net operating loss deduction and special deductions, which the taxpayer is required to report to the United States Treasury...." Since N.J.A.C. 18:7-5.10(f) permits the Director to determine the period in which items of income or expense shall be reported, regardless of accounting method utilized for State purposes, the full amount of the recapture must be reported and remitted with the CBT-100 return corresponding with the year when the recapture is reported Federally. No provision exists to allow the deferral at the State level. □

INHERITANCE/ESTATE TAX ***Domicile***

The most basic, and possibly the most important, decision to be made by the representatives of an estate is to determine the domicile of the decedent at his/her death. Admittedly, for most of us the choice is simple. However, in a nation characterized by a high level of immigration, wealth, and mobility, the Transfer Inheritance and Estate Tax Branch is required to resolve the issue of domicile on a daily basis.

A decedent's domicile determines the jurisdiction for original probate, the individual State death taxes to which the estate will be subject, and the nature of the decedent's assets that will be subject to the tax.

The estate of a decedent who was domiciled in the State of New Jersey (resident decedent) is subject to both New Jersey Transfer Inheritance Tax and New Jersey Estate Tax. The estate of a decedent who was not domiciled in New Jersey (nonresident decedent) is subject only to the Nonresident Transfer Inheritance Tax.

In a resident decedent's estate, real and tangible personal property located in New Jersey and intangible personal property wherever situated is subject to tax. In the estate of a nonresident decedent, only real and tangible personal property located in New Jersey is subject to the tax.

In spite of its importance, however, very little guidance exists in the current literature and statute. Consequently, the leading New Jersey court cases must be consulted for a workable definition of domicile and for the rules that determine a person's domicile

should that become an issue at the time of death.

Guidelines established by the Court relating to domicile include:

1. No person can be without a domicile.
2. A domicile once established continues until it is superseded by a new one.
3. Domicile may be acquired in one of three ways:
 - (a) Through birth or place of origin;
 - (b) Through choice by a person legally capable of choosing domicile; or
 - (c) Through operation of law in the case of a person who lacks capacity to acquire a new domicile by choice.
4. No person can have more than one domicile at any one time. The New Jersey courts have determined that where there are multiple residences, domicile is that place which the subject regards as his true and permanent home. Home being defined for this purpose as the place where a person dwells and which is the center of his domestic, social and civil life. *Restatement, 2nd, Conflict of Laws* §12 (1971).

No simple solution for resolving a disputed domicile has been developed by the New Jersey courts. Instead, there is a recognition of the complexities that may be involved and basic tenets established for guidance. The New Jersey Supreme Court has noted that since the concept of domicile involves the concurrence of physical presence in a particular State and an intention to make that State one's home, determination of a

continued on page 6

domicile - from page 5

disputed issue on the subject requires an evaluation of all of the facts and circumstances of the case. *Lyon v. Glaser*, 60 N.J. 259 (1972).

The Transfer Inheritance Tax Branch has developed a "Domicile Questionnaire" which is used to gather pertinent information when the domicile of a decedent is in question. This form is available from the Branch in Trenton. □

New Imaging System for Returns

There's a good reason for the new look of the 1995 NJ-1040. This year the New Jersey Division of Taxation will begin processing income tax returns using its new electronic imaging system. This system uses "intelligent character recognition" to read printed and handwritten information from the return. By using electronic imaging, the Division will be able to process returns more efficiently and issue refunds more quickly.

The traditional NJ-1040 form is printed using red ink this year to accommodate the requirements of the scanning equipment. This red ink "drops out" and is invisible to the scanner, which sees only the information entered on the form. The equipment is expected to recognize 85% of all handwritten characters entered on the NJ-1040, which will greatly reduce processing time.

Likewise, the format approved for computer-generated forms is new this year. These returns now include a "scanband" which contains all of the information printed on the lines below. The system

will read the data contained within the scanband with an anticipated rate of over 95%.

The Homestead Property Tax Rebate Application has been moved to a separate sheet this year. This change will enable residents whose income is under the filing threshold to complete and file a rebate application without having to submit an NJ-1040.

The Division expects all of these changes to make filing New Jersey income tax returns easier and reduce the waiting time for State refunds. The Division asks filers to help by doing the following:

1. Do not staple, tape, clip, or glue W-2s, payments, schedules or anything else to the NJ-1040.
2. If possible, send 8½" x 11" copies of W-2s rather than the form itself.
3. Mail returns and enclosures (flat, not folded) in 9" x 12" envelopes. □

**DO
NOT
STAPLE**
Tape, Clip or Glue

ANYTHING
(W-2s, Schedules, Checks, etc.)
to
Form NJ-1040 or Form HR-1040

TeleFile Pilot Program Launched

Many New Jersey residents can now file their tax returns and homestead rebate applications from their own homes through their telephones. This is made possible by a TeleFile pilot program being conducted by the New Jersey Division of Taxation during the current tax season (January 16, 1996 through April 15, 1996). In this initial year, almost 300,000 taxpayers will be able to call the Division's computer and file their returns via a touch-tone telephone. That number is expected to rise significantly in coming years when the program is expanded State-wide.

Governor Christine Todd Whitman said the TeleFile pilot program is another example of the commitment of the Department of the Treasury, through its Division of Taxation, to provide New Jersey taxpayers with the best service possible.

"TeleFile provides New Jersey residents a fast, easy way to file their State taxes," said Governor Whitman. "In fact, TeleFile will make filing a tax return as simple as dialing a touch-tone telephone."

"One substantial benefit of the TeleFile program is its potential to allow the filing of more than one million income tax returns annually. This will save the State money by reducing the Division of Taxation's processing costs."

"The TeleFile project reflects the type of effort the State Department of the Treasury continues to make to ensure New Jersey taxpayers receive the best, most efficient service possible," said Governor

continued on page 7

telefile - from page 6

Whitman.

With TeleFile, taxpayers will provide requested information by phone to the Division of Taxation. They will not need to do any calculations — TeleFile will instantly compute their refund, or payment due, and give them the amount. They will not need to mail a return or any paper to the Division. "Best of all, TeleFile will receive their State refunds within two weeks of their call," explains State Treasurer Brian W. Clymer.

TeleFile taxpayers have been pre-selected by the State and have received a New Jersey TeleFile return and personal identification number. To qualify for this program, the taxpayer must meet certain conditions including the following:

- use the same filing status as on last year's return
- have total income of \$50,000 or less
- have income from wages and/or interest only
- interest income must be \$400 or less
- must live at the same residence since January 1, 1995

Pre-selected taxpayers in the following counties may participate in this year's pilot program: Burlington, Camden, Cumberland, Gloucester, Mercer, Middlesex, Monmouth, Morris, Ocean, Salem, Somerset and Union.

Taxpayers who have questions about the TeleFile Program can call the Tax Hotline at (609) 588-2200. □

LOCAL PROPERTY TAX Summary of 1995 Court Decisions

- *New Jersey Transit Corp. v. Borough of Somerville*, Supreme Court; decided April 19, 1995.

Ten year statute of limitations for initiating State actions did not apply to real property assessment appeals; regular assessment appeal procedure applied to State same as other taxpayers.

- *Higg-A-Rella, Inc. v. County of Essex et al.*, Supreme Court; decided July 19, 1995.

Computer taped master municipal tax assessment list was not a public record under Right to Know Law but was a public record under common law, and subject to disclosure where confidentiality versus public information issues were weighed and legitimate interests served. The case has been remanded to the trial court to determine a fair selling price.

- *General Motors Corp. v. City of Linden et al.*, Superior Court, Appellate Division; decided February 3, 1995.

Citing Federal Civil Rights Act, auto assembly plant owner alleged Federal and State constitutional rights were violated by discriminatory, excessive valuation. In reversing this, Court held immunity status of municipality, tax assessor and consulted private appraiser was not absolute in civil rights suit but common law tort action for negligence was not to be imposed on municipal assessors or appraiser-consultants under Tort Claims Act. Case was appealed

to the New Jersey Supreme Court and a decision is pending.

- *R. C. Maxwell Co. v. Galloway Township*, Superior Court, Appellate Division; decided April 25, 1995.

Billboards were subject to real property tax as personal property ordinarily intended to be affixed permanently to real property; outward appearances were relevant in determining ordinary intent. Case has been appealed to the New Jersey Supreme Court and a decision is pending.

- *Goodwill Home and Missions, Inc. v. Garwood Borough*, Superior Court, Appellate Division; decided June 14, 1995.

Congregation, not municipality, evaluates minister's duty performance; minister need not attend services where he officiates; Goodwill membership was confirmed as religious congregation though multidominational; its executive director/pastor was officiating clergyman, and residence was exempt as parsonage.

- *Borough of Paramus v. Etaner Enterprises*, Superior Court, Appellate Division; decided August 1, 1995.

Erroneous real property tax assessment caused by computer error was correctable under Correction of Errors Statute.

- *Estell Manor City v. Harry Stern*, Tax Court; decided January 5, 1995.

Woodland tracts were denied farmland assessment due to

continued on page 8

1995 decisions - from pg. 7

noncompliance with management plan, insufficient forestry activity and product income; woodlands require a two-part qualification for farmland assessment from both DEP and the municipal tax assessor.

- *J. L. Muscarelle, Inc. v. Saddle Brook Township*, Tax Court; decided February 10, 1995.

Assenting full court opinion that payment of property tax liability was prerequisite to assessment appeal as affirmed in recent consolidated Appellate Court decision relative to the same matter.

- *Emmis Broadcasting Corp. of N.Y. v. East Rutherford Borough*, Tax Court; decided March 21, 1995.

Radio towers as antennas broadcasting signals were machinery, apparatus or equipment used in business, per Business Retention Act, and exempt from real property tax but supportive concrete tower bases were taxed as real property. Taxpayer has appealed to the Superior Court, Appellate Division.

- *East & West Washington Realty v. Washington Borough*, Tax Court; decided March 31, 1995.

tax assessors' calendar - from page 8

Under Correction of Errors Statute request for reduced assessment for 1991-1993 due to fire was denied as assessor judgment and uncorrectable under limited scope of statute; assessor's statement regarding failure of appeal for non-payment of taxes did not

preclude taxpayers' right to appeal or violate due process.

- *Grandal Enterprises, Inc. v. Keansburg Borough*, Tax Court; decided June 16, 1995.

1993 and 1994 added assessments on formerly exempt lot could not be voided by Freeze Act based on 1992 court settlement judgment for the entire lot where segment of lot was not part of the appeal. Freeze Act fixed the base year assessed value for two successive years; it did not determine true value for the two successive years.

- *Freehold Township v. Javin Partnership*, Tax Court; decided June 21, 1995.

Insulated walls and ceilings of refrigeration area in beer distribution warehouse were not exempt as machinery, apparatus and equipment used in business but compressors and blowers were machinery, etc. and were exempt as such. □

LOCAL PROPERTY TAX Tax Assessors' Calendar

April 1-

- Deadline for appeals of assessed valuations to County Tax Boards by taxpayers and taxing districts and for appeals of assessed valuations over \$750,000 to Tax Court.

- County budgets certified to County Tax Boards.
- Percentage level of taxable value of real property set by County Tax Board resolution.

- Property Tax Deduction Disallowance Notice, Form PD4, for nonfiling Post-Tax Year Statement or income over \$10,000 sent by collector.

April 10-

- Copy of County Tax Board resolution of real property taxable value percentage level mailed to assessors, municipal clerks, and Director, Division of Taxation.

April 15-

- Form SR-3A filed with Property Administration by County Tax Boards.

May 1-

- Extended deadline for filing Annual Post-Tax Year Statement, Form PD5, with collector where taxpayer's illness prevented required March 1 filing.

May 15-

- Table of Aggregates completed by County Tax Board from assessors' Tax Duplicates and Taxation Director's certification of 2nd class railroad property.

- General tax rates certified by County Tax Boards.

May 18-

- Table of Aggregates signed and transmitted to Taxation and Local Government Services Directors, State Auditor, municipal clerks and clerk of board of freeholders by County Tax Board.

May 27-

- Corrected Tax Duplicates sent by County Tax Board to tax collectors for billing purposes.

June 1-

- Assessors' Property Tax De-

continued on page 9

duction Disallowance Notices, Form PD4, sent.

- Collectors' Property Tax Deduction Disallowance Notices, Form PD4, for nonfiling Post-Tax Year Statement or income over \$10,000 for taxpayers granted a medical extension sent.
- Repayment of disallowed property tax deductions previously granted required. Nonpayments become liens.

June 5—

- Certification of Property Tax Deductions, Form PD65.10, and Certification of Veterans' Deductions, Form VE-WVE-1, completed and forwarded by collector to County Tax Board.

2nd Monday in June—

- Assessors' report, description and valuation of railroad property not used for railroad purposes to Director, Division of Taxation.

June 15—

- Total number and dollar amount summary of senior citizen, disabled, surviving spouse and veterans' property tax deductions allowed by each district certified to Director, Division of Taxation. □

Criminal Enforcement

Criminal Enforcement over the past several months included:

- A recommendation for prosecution has been submitted as a result of an investigation of a husband and wife and the various businesses they operated in central New Jersey. The investigation revealed that the taxpayers failed to file New Jersey income tax, corporation business tax, and sales tax returns from January 1990 through March 1995. The total amount of tax misappropriated and/or evaded was \$154,186.84.
- A Mercer County jury convicted Michael Keating of 24 counts of bribery, and one count each of conspiracy, official misconduct, theft by deception, misapplication of government property and tampering with public records. The five counts in the indictment charging Keating with State tax violations were dismissed as part of the prosecution trial strategy. The tax counts included failing to report \$124,000 of personal income which he had received in kickbacks during the period 1988–1991. The tax owed in the amount of \$4,487.23 has been referred for civil billing and

collection.

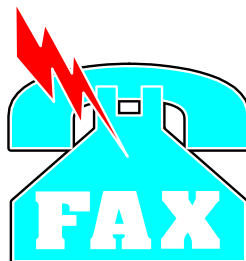
- Ann Cinquemani, the president of Friendly Three, Inc., trading as Circle Diner in Flemington, was indicted on October 27, 1995 by the Hunterdon County Grand Jury on four counts relating to the evasion of New Jersey taxes. The counts included the failure to turn over sales and use taxes, filing false or fraudulent sales tax returns, and the misapplication of entrusted funds. The sales tax collected but not remitted for the indictment period of April 1 through December 31, 1992 was \$14,597. The entire investigation covers the period from January 1991 to March 1994 when the diner was destroyed by fire. Additional civil action will also be taken for the remainder of the period not covered by the indictments. This investigation was worked jointly by Taxation's Office of Criminal Investigation and the Hunterdon County Prosecutor's Office.
- On November 16, 1995, a Termination of Pre-Trial Intervention hearing was conducted for Johannas Nydam in Bergen County. Mr. Nydam, whose business is Dumont Wines and Liquors, failed to make restitution as well as failed to file and remit sales tax during the PTI period. As a result of this hearing, Mr. Nydam is required to remit the sales tax collected from the business activity on a daily basis to his parole officer. In addition, he must sell the business by June 30, 1996 and is barred from being associated with the alcoholic beverage

New Jersey tax forms at your fingertips!
From your fax machine's phone, dial

609-588-4500

NJ TaxFax

**NJ Tax Forms & Publications
24 Hours – 7 Days a Week**



criminal enforcement - from pg. 9

industry in the future.

- On October 17, 1995, Frederic A. Dinonno and his company T & L Marketing Services Inc., received a twelve count indictment by a State grand jury for conspiracy, misconduct by a corporate official, filing false and fraudulent corporation tax returns and New Jersey income tax returns, and failing to file both corporation business tax returns and State income tax returns. Mr. Dinonno solicited and received monetary bribes from vendors of his employer, Ebasco Corporation, in exchange for business from Ebasco Corporation. T & L Marketing was created solely to facilitate the bribe monies and to conceal the diversion of money which lawfully belonged to Ebasco Corporation. The bribes received by Dinonno were in excess of \$200,000.00 between May 1986 and January 1994. The indictment was a result of a joint investigation between the Division of Taxation and the Division of Criminal Justice.
- Valji Mori, the owner of Ray's Deli, a Jersey City delicatessen/liquor store, was arrested on December 21, 1995 and charged with paying a \$2,000 bribe to cut his New Jersey State tax liability, alleged to be about \$100,000, in half. Mori allegedly offered a bribe initially to a Division of Taxation auditor working out of the Division's Elizabeth office. The auditor immediately reported the matter to his supervisors and the case then was taken over by the Division's Office of Criminal

Investigation. An Internal Security Unit investigator, working in an undercover capacity, received the alleged bribe money.

The investigation was conducted in cooperation with the Division of Criminal Justice/State Police Corruption Bureau. State Police detectives and members of the Hudson County Prosecutor's Office assisted in the arrest. Mr. Mori was charged with bribery, compromising a public servant for private interest, soliciting official misconduct, and conspiracy.

- Variety Candy and Tobacco, Inc. was found guilty and fined in municipal court for accepting unstamped cigarettes and for failing to maintain required records as a result of an investigation that revealed the failure to collect and remit the Tobacco Products Wholesale Sales and Use Tax. The initial investigation disclosed a means to divert taxable tobacco products to manufacturer's representatives in such a manner as to avoid the 24% tax.
- Three cigarette tax cases resulted in the arrest of individuals for transporting and possessing cigarettes not bearing the required New Jersey revenue stamps. Samer Al-Sakaf and Bing Chen, both of Richmond, Virginia, were transporting 450 cartons and 2,360 cartons of unstamped cigarettes, respectively. In the third case, Eric Chu of Long Island City, New York was in possession of 3,000 cartons of the unstamped cigarettes. All 5,810 of the confiscated cartons bore stamps for the State of Virginia.
- Dependable Limousine, Inc., a Lakewood Township limousine service and repair facility, pled guilty to failing to timely remit sales tax. The case was heard in the Mercer County Superior Court on December 22, 1995. Restitution was ordered in the amount of \$12,000 and was paid in full upon sentencing.
- A criminal investigation was conducted on an individual living in Lillian, Alabama who failed to file State income tax returns to report installment sale income from New Jersey sources for the 1991 through 1994 tax years. Although this case did not meet the criteria for criminal prosecution, the investigative efforts did result in the collection of the returns and taxes owed in the amount of \$1,027.00 on New Jersey income that totaled \$45,074.00 for the period.
- Melvut Gar of Ocean, NJ was ordered to pay a \$405 fine for failing to obtain a cigarette tax license. The case was heard in the Little Silver Municipal Court on January 18, 1996. In addition, a Teaneck grocer was charged for selling cigarettes without a license and failing to register with the Division of Taxation for sales tax. □

Enforcement Summary

Civil Collection Actions Quarter Ending - December 31, 1995

Following is a summary of enforcement actions for the quarter ending December 31, 1995.

Certificates of Debt

During the quarter ended December 31, 1995, the Division filed 2,901 Certificates of Debt in New Jersey Superior Court. These COD's, which have the same force and effect as docketed judgments, totaled \$34.4 million.

Levies

\$2.8 million was collected by Field Investigations as a result of executing against 706 non-compliant taxpayers. In addition, \$197,435 was collected by levying against payments made under State contracts to satisfy debts owed by State vendors.

Seizures

When a liability, for which the Division of Taxation has secured judgments, cannot or will not be satisfied by a taxpayer and all other means of collection of the debt have been exhausted, seizure of the business and personal assets will take place. Field Investigators will close a business, seizing any tangible assets including licenses, inventory, machinery, furniture, vehicles, etc., until arrangements are made for payment of the debt.

For the quarter ending December 31, 1995, property of 29 businesses and three individual taxpayers was seized. Some businesses were able to reopen, others remain closed. A listing of these seizures appears on pages 13 and 14.

Auctions

If the liability of a business seized by the Division is not satisfied or resolved, the business will remain closed. To satisfy the debt, the Division can sell the business assets at a public auction.

During the quarter ending December 31, 1995, eight auctions were held by the Division. A listing follows on page 15.

In the event an auction does not net enough monies to resolve the debt, the Division will execute against the personal assets of any of the business's responsible officers. Responsible officers are held personally liable for the trust fund portion of the debt which includes, but is not limited to, sales tax, withholding tax and motor fuels tax. □

Tax Briefs

Corporation Business Tax

Allocation — The Division answered an inquiry from a company that files corporate income tax returns in three states, New Jersey, Illinois and California. The corporation has an office in New Jersey and Illinois but not in California. The question was whether the company should file allocating returns in the states where it had an office and take a credit where there was no office.

The State of New Jersey does not use separate geographical accounting. Once a corporation has a bona fide office outside of New Jersey, then the corporation is permitted to allocate. It is immaterial that a corporation does not have an office in every state where it does business. Therefore, the issue of a credit for tax paid to another state does not come into play. If an allocating taxpayer does not believe that the allocation factor produced a fair tax to New Jersey, taxpayer may request Section 8 relief. New Jersey does not have jurisdiction to give advice as to any tax payment or filing requirements that other states may employ.

Limitation on the Deduction of Interest Owed to Certain Related Parties Repealed — P.L. 1995, c.418 repealed N.J.S.A. 54:10A-4(k)(2)(E). N.J.S.A. 54:10A-4(k)(2)(E) required, with certain exceptions, the add-back to taxable income of 90% of interest owing directly or indirectly to holders of 10% or more of the aggregate outstanding shares of the taxpayer's capital stock. The repeal is effective for fiscal or calendar accounting years ending after

Wanted!

➔ New Jersey
➔ Tax Cheats

You pay State taxes, why shouldn't everyone? It's time to stop carrying the burden alone! Help us identify and locate tax cheats in New Jersey.

To CATCH a Cheat
Call

609-588-2200

WRITE:

NEW JERSEY DIVISION OF TAXATION
COMPLIANCE ACTIVITY
CN 245
TRENTON NJ 08646-0245

continued on page 12

tax briefs - from page 11

January 10, 1996.

Manufacturing Equipment and Employment Investment Tax Credit — The Manufacturing Equipment and Employment Investment Tax Credit, N.J.S.A. 54:10A-5.16 through 5.21, provides a credit against Corporation Business Tax liability for investments in certain manufacturing equipment and for certain increased employment.

To qualify for the credit, a taxpayer must have invested in qualified manufacturing equipment in tax years beginning on or after January 1, 1994. Qualified equipment is defined under N.J.S.A. 54:10A-5.17 as: "machinery, apparatus or equipment acquired by purchase for use or consumption by the taxpayer directly and primarily in the production of tangible personal property by manufacturing, processing, assembling or refining, as defined pursuant to subsection a. of section 25 of P.L.1980, c.105 (C. 54:32B-8.13), having a useful life of four or more years, placed in service in this State. Qualified equipment does not include tangible personal property which the taxpayer contracts or agrees to lease or rent to another person or licenses another person to use."

N.J.S.A. 54:32B-8.13 grants an exemption from the sales and use tax for receipts from the "sales of machinery, apparatus or equipment for use or consumption directly and primarily in the production of tangible personal property by manufacturing, processing, assembling or refining." The Division has interpreted this provision to allow an exemption

for the purchase of equipment used in a food processing plant such as a sausage factory, and for the purchase of equipment used in certain establishments where processed foods are purchased directly by the consumer, such as bakeries and bagel shops. The Division has denied the exemption, however, for the purchase of equipment for the processing of food sold in fast food establishments such as Burger King and in restaurants. Restaurants are deemed to be engaged in the service of serving food for on-premises dining rather than using equipment directly and primarily in the production of food.

The Corporation Business Tax provision N.J.S.A. 54:10A-5.16 makes specific reference to the sales tax provision N.J.S.A. 54:32B-8.13. The Division will therefore refer to its interpretation of N.J.S.A. 54:32B-8.13 in determining whether equipment purchased for the processing of food qualifies for the Corporation Business Tax credit under N.J.S.A. 54:10A-5.16. In general, equipment purchased for the processing of food in food plants and establishments such as bakeries will be eligible for the credit, but equipment purchased for the processing of food served in restaurants will not be eligible.

Gross Income Tax

Severance Pay — Severance pay is considered to be New Jersey source income, under N.J.S.A. 54A:5-8. The portion of the severance pay that is sourced to New Jersey depends on the time that the person worked in New Jersey. The formula for calculating the portion

that is "allocated" to New Jersey is as follows:

$$\frac{\text{Days worked in NJ}}{\text{Total days worked for employer (inside and outside NJ)}} \times \text{Severance Pay} = \text{NJ source amount}$$

Severance pay is taxable in New Jersey, even though the amount of the severance pay depends on the total number of years worked for the employer and some of the work was performed prior to the beginning of the gross income tax. See, *DuBois v. Director, Division of Taxation*, 4 N.J. Tax 11 (1981), affirmed 6 N.J. Tax 249 (1982), affirmed 95 N.J. 234, 470 A.2d 446 (1983).

Sales and Use Tax

Diplomatic Tax Exemption — The U.S. Office of Foreign Missions (OFM) administers the Diplomatic Tax Exemption Program, which provides sales and use tax exemption to eligible foreign officials on assignment in the U.S. The OFM has issued guidelines on the proper use of sales tax exemption cards issued by the U.S. Department of State.

There are two types of these tax exemption cards: personal cards and mission cards.

Personal sales tax exemption cards are issued for the sole benefit of the individual identified on the card. For a transaction to be eligible for exemption from taxes, the card bearer must initiate the transaction, tender payment, and take possession of the purchase. An individual may not "loan" the card to a family member or friend.

continued on page 15

New Jersey State Tax News

1995 (Volume 24)

INDEX

	No.	Page			
CORPORATION BUSINESS TAX			Deferred Compensation Plan, Nonqualified	2	9
IRC 338 (h) (10) Change in Position	2	5	Deferred Compensation Plan, Nonqualified, Clarification	4	15
IRC 368 Reorganization	3	9	Electronic Filing of Individual Return	3	5
IRC 368 (a) (1) (A) Merger	4	12	Extension Requests	2	1
Manufacturing Credit for Leased Equipment	1	4	Form 1099 Filing Requirements	2	4
Meals and Entertainment on CBT-100S	2	4	Household Employees	3	10
Nexus, Activity Required for	2	3	Income Tax Rates Reduced	3	1
Refunds and Assessments	2	2	Installment Sale of Realty	3	10
Regulated Investment Companies	2	9	Mutual Fund Distributions	2	10
Research Credit	4	12	Resident Income Tax Returns, New Format	4	1
Research and Development Tax Credit	3	4	S Corporation Fringe Benefits	1	2
S Corporation Built-in Gains	1	3	S Corporation Gross Income Tax Calculations	4	15
S Corporation Distributions	2	9	S Corporation Resident Shareholders	3	10
S Corporation Distributions	3	9	Telefile Program	4	2
S Corporation Estimated Tax	1	7	Voluntary Disclosure Policy	3	5
S Corporation IRC 162	4	15			
Tax Clearance and Dissolution	4	6			
			HOMESTEAD REBATE		
GENERAL			Separate HR-1040	4	1
Assembly Bill Aids Tax Compliance	3	3			
Business Tax Workshops	3	7	INHERITANCE TAX		
Director Announces Promotions	3	4	Audit Enhancements	3	4
Division Hires Collection Firms	3	3	Frequently Asked Questions	1	4
Division Plans to CATCH Tax Cheats	3	4	No Attorney Needed for Property Transfer	2	5
Electronic Data Interchange	4	7	Nonresident Inheritance Tax	4	6
Electronic Funds Transfer	1	2			
Index for 1994 (Volume 23)	1	Insert	LOCAL PROPERTY TAX		
Juror Source List Information	4	3	Audits Yield Over \$600,000	3	6
New Processing Equipment	4	4	Exemption/Abatement Law Amended	3	6
Package NJX for 1995	3	8	Farmland Acreage Declines	4	8
Revenue Opportunities Suggested by Division Staff	1	6	Farmland Evaluation Advisory Committee Adopts Values for 1996	4	8
Tax Publications Guide	3	8	Income Guidelines for \$250 Deduction	4	9
Taxpayer Services Hotline Statistics	2	7	Public Access to Assessment Tapes	3	7
			Reimbursements Certified	4	8
GROSS INCOME TAX			Tax Assessors' Calendar	1	5
Business Income, Reporting	4	2	Tax Assessors' Calendar	2	6
Cafeteria Plans	3	2	Tax Assessors' Calendar	3	6
Credit for NYC Unincorporated Business Tax	1	4	Tax Assessors' Calendar	4	9
Credit for Taxes Paid to New York, Calculation of	2	4	Tax Assessor Certificates	2	7
Credit for Taxes Paid on Partnership Income	1	7	Tax Assessor Certificates	4	10
	No.	Page			

INDEX (continued)

	No.	Page		No.	Page
Veterans' Property Tax Exemption, Proof Needed for	2	6	Cellular Telephones Used for Promotional Purposes	4	16
			Cemetery Companies	3	13
			Crop Dusting	4	16
MISCELLANEOUS			Drop Shipment Sales	3	14
Criminal Enforcement	1	6	Exhibition Space Rental	2	13
Criminal Enforcement	2	8	Furniture Refinishing Supplies	2	13
Criminal Enforcement	3	8	Hearing Test	3	13
Criminal Enforcement	4	10	Housing Sponsors' Exempt Purchases	2	14
Enforcement Summary—Quarter Ending December 31, 1994	1	7	Lease Entered Into Before June 26, 1989	3	13
Enforcement Summary—Quarter Ending March 31, 1995	2	8	Library Services	3	14
Enforcement Summary—Quarter Ending June 30, 1995	3	9	Medical Equipment Used to Provide Health Care	2	14
Enforcement Summary—Quarter Ending September 30, 1995	4	11	Medical Records, Retrieving and Photocopying	2	10
Georgia to Refund Federal Retiree Payments	3	7	New Urban Enterprise Zones	1	3
Interest 11.5% for First Quarter 1995	1	2	Pizza Delivery Charges	3	13
Interest 11.5% for Second Quarter 1995	2	1	Purchase Points for Discount from Price	4	15
Interest 11.5% for Third Quarter 1995	3	2	Recyclable Materials Disposal	2	14
Interest 11.5% for Fourth Quarter 1995	4	1	Scaffolding Rental	2	13
Pennsylvania Amnesty Program	4	7	Sealcoating and Striping Parking Areas	3	14
Seizures—Oct. – Dec. 1994	1	9	Use Tax Billings	1	1
Seizures—Jan. – Mar. 1995	2	11			
Seizures—Apr. – June 1995	3	11	SPILL COMPENSATION AND CONTROL TAX		
Seizures—July – Sept. 1995	4	13	Guidelines—Technical Bulletin TB#16	2	7
SALES AND USE TAX			UNCLAIMED PROPERTY		
Alcoholic Beverage Project	1	2	Address for Additional Information	1	5
Annual Use Tax Return	2	2			
Auto Detailing	4	16			

*Legend for 1995 Tax Laws

ABT	=	Alcoholic Beverage Tax
ACC	=	Atlantic City Casino Control Commission
ALL	=	All Taxes Administered by the Division
CBT	=	Corporation Business Tax
FBT	=	Financial Business Tax
GIT	=	Gross Income Tax
LIT	=	Litter Control Tax
LPT	=	Local Property Tax
MFT	=	Motor Fuels Tax
MIS	=	Miscellaneous
S&U	=	Sales and Use Tax

1995 TAX LAWS

CH.	DATE	SYNOPSIS	TAX*	BILL
7	1-12-95	Appropriates \$10 million of Green Acres monies toward acquisition of Sterling Forest in New York.	LPT	S-137 (4R)
26	1-26-95	Establishes the "New Jersey Breast Cancer Research Fund" and provides for a gross income tax checkoff.	GIT	A-1701 (1R)
30	2-15-95	Increases from three to five the membership of county boards of taxation in counties of the second class with a population of over 550,000 persons.	LPT	S-785
44	3-7-95	Revises law relating to selection and impaneling of juries.	MIS	A-531 (2R)
51	3-17-95	Amends the Motor Fuels Act to provide that a consumer who earns credit through purchases on a credit card may utilize these credits to receive a rebate when that person purchases motor fuels.	MFT	S-1070 (3R)
96	5-1-95	Amends the New Jersey Limited Liability Company Act and the Gross Income Tax Act to provide for the creation of limited liability partnerships.	GIT	A-1860 (1R)
108	5-30-95	Revises the "New Jersey Transportation Trust Fund Authority Act of 1984" and changes the dedication of monies to Trust Fund Account.	MIS	A-99 (2R)
111	6-1-95	Excludes certain Cafeteria Plan cash-out options from gross income under the Gross Income Tax Act.	GIT	A-1489 AS
113	6-2-95	Permits a municipality to offer tax incentives to a business that transfers commercial or industrial operations from one qualifying municipality to another qualifying municipality.	LPT	S-1466 (1R)
148	6-30-95	Appropriates fiscal year 1995 public utilities gross receipts and franchise taxes in excess of \$960,000,000 for distribution to municipalities to reduce the local municipal property tax levy.	LPT	S-2106
152	6-30-95	Clarifies procedures for disposition of property of intestate decedents.	MIS	S-2138 (1R)
158	6-30-95	Requires State agencies to provide certain taxpayer identification information to the Division of Taxation to assist in collecting delinquent State taxes.	MIS	A-2896
159	6-30-95	Authorizes payments made under State contracts to be set-off against tax debts owed by State vendors.	MIS	A-2897 (1R)
160	6-30-95	Concerns the frequency of returns and payments of gross income tax withholdings by employers, and limits the frequency of electronic funds transfer payments to once a week maximum.	GIT	A-2899 (1R)
161	6-30-95	Establishes a reporting and review system for alcoholic beverage wholesalers and retailers to verify the correct collection and reporting of sales and use taxes on alcoholic beverages.	S&U	A-3006
164	6-30-95	Appropriates funds for State Budget for fiscal year 1995-1996.	MIS	S-4000
165	7-4-95	Reduces the gross income tax rates for taxable years 1996 and thereafter.	GIT	A-100
169	7-5-95	Establishes requirements for ticket brokers concerning the resale of tickets of admissions to places of entertainment.	MIS	S-1227 (3R)
170	7-5-95	Permits residential property to be exempt from special improvement assessment.	LPT	A-2260 (1R)
173	7-6-95	Permits a municipality that has created a Landfill Reclamation Improvement District to impose a franchise assessment fee not to exceed 3% on the sale price of all tangible property sold by a business in the district.	MIS	(1R) SCS for S-1760 SCS
184	7-25-95	Eliminates the sales and use tax on advertising space in telecommunications user or provider directories or indexes.	S&U	A-520/672/ 1146 ACS (2R)

1995 TAX LAWS (continued)

CH.	DATE	SYNOPSIS	TAX*	BILL
196	8-2-95	Establishes procedures to convert a health service corporation to domestic mutual insurer.	MIS	A-2727
222	8-15-95	Provides that limited liability companies may merge or consolidate with other business entities.	CBT	A-2151 (1R)
223	8-15-95	Allows partnerships to merge or consolidate with certain other business entities.	CBT	A-2152 (1R)
224	8-15-95	Allows limited partnerships to merge or consolidate with certain other business entities.	CBT	A-2154 (1R)
245	9-11-95	Requires the receipts factor in the business allocation formula to be double weighted.	CBT	A-89 (1R)
246	9-11-95	Reduces the tax rate from 9% to 7.5% for corporations with annual entire net income of \$100,000 or less.	CBT	A-2927 (1R)
259	11-13-95	Provides for the Division of Taxation to assume the responsibility for generating, printing and mailing the forms used to administer the senior citizen/disabled and the veterans' property tax deductions.	LPT	S-7 (5R)
276	12-15-95	Supplements and amends the Farmland Assessment Act of 1964.	LPT	S-1746 (3R)
279	12-15-95	Allows corporations to merge with certain other business entities after obtaining a tax clearance certificate.	MIS	A-2155 (2R)
290	12-22-95	Permits income tax refunds and homestead rebates to be set-off to reimburse Medicaid for expenses pursuant to a child support order.	GIT	S-2348
293	12-22-95	Establishes a "New Capital Sources Partnership" to promote and support small capital business development.	CBT	A-16 (3R)/ S-1773 (1R)
299	12-22-95	Provides a gross income tax checkoff for the Battleship New Jersey Memorial Fund.	GIT	A-2726 (1R)/ S-1985 (2R)
301	1-3-96	Extends the expiration date of the tax on the sale of litter-generating products to December 30, 2000.	LIT	S-2335 (1R)
304	1-5-96	Increases penalties for the sale and distribution of tobacco products to minors.	MIS	S-279 (2R)
317	1-5-96	Exempts certain radio and television broadcast production equipment from sales and use tax.	S&U	S-1048 (1R)
320	1-5-96	Regulates sale of tobacco products to minors; increases licensing fees for tobacco dealers and vending machines and dedicates revenues to local enforcement.	MIS	SCS for S-1186 (2R)
322	1-5-96	Allows county probation departments and State IV-D agency to receive information about putative fathers and child support obligors, including information on income and assets from the Division of Taxation.	MIS	S-1307 (3R)
345	1-5-96	Permits municipalities to require county tax boards to strike general tax rates rounded up to the nearest half-penny.	LPT	A-717
361	1-5-96	Amends the Unclaimed Property Act with respect to agreements to pay compensation to recover property.	MIS	A-1609 (2R)
375	1-5-96	Permits foreign professional legal corporations to transact business within New Jersey.	MIS	A-2578 (1R)
382	1-9-96	Authorizes seven additional urban enterprise zones.	MIS	A-2606 (3R)
406	1-10-96	Establishes inception and termination dates for certain peacekeeping missions to determine veterans' eligibility for certain State benefits.	LPT	A-485 (1R)
413	1-10-96	Provides for a ten year exemption of property taxes on certain contaminated property.	LPT	ACS for A-1631 (2R)
418	1-10-96	Eliminates the corporation business tax limitation on the deduction of interest owed to certain related parties.	CBT	A-2724 (1R)

Division of Taxation Seizures (October – December 1995)

Note: Businesses listed may have satisfied their tax liability or otherwise come to agreement with the Division following the date of seizure and may now be reopened.

County	Name/Address	Seizure Date	Business Type	Status
Atlantic	Ventnor Pizza, Inc. t/a Special Pizza City Egg Harbor Township	10-04-95	Pizza Shop	Reopened
	1401 Arctic Avenue Corp. t/a Ike's Corner Atlantic City	11-13-95	Bar	Liquor License Seized (Business Closed Previously)
	Myosoto, Inc. t/a Reflections - Cocktails Atlantic City	12-05-95	Bar/Restaurant	Open
	Uncle Mike's Country Pine Inn, Inc. Mays Landing	12-07-95	Bar	Open; Liquor License Seized
	Town Tavern, Inc. Atlantic City	12-13-95	Bar/Tavern	Reopened
Bergen	Pasquale's Pizzeria, Inc. Fair Lawn	10-02-95	Pizza Parlor	Bankruptcy
	Rosalia, Inc. t/a Leonia Pizzeria Leonia	10-11-95	Pizza Parlor	Closed
	Valley Liquors, Inc. Wood-Ridge	12-06-95	Liquor Store	Liquor License Seized (Business Closed Previously)
Burlington	Spot Lube Sales, Inc. Edgewater Park	10-03-95	Oil Change/ Auto Repair	Closed
Camden	Dar-Kur, Inc. t/a Old City Brewery Tavern Camden	10-05-95	Bar	Open; Liquor License Seized
	Harford Construction Co. Cherry Hill	10-12-95	Building Contractor	Open
	Spencer Caribbean Inn, Inc. Camden	10-17-95	Bar	Liquor License Seized (Business Closed Previously)
	Bower, Robert D. Clementon	10-25-95	N/A (Individual)	Motor Vehicle Seized
	Bluestein, Martin & Sandra Lindenwold	11-02-95	N/A (Individuals)	Motor Vehicle Seized
	1239 G&G Inc. t/a Camelot Lounge Camden	11-14-95	Bar	Liquor License Seized (Business Closed Previously)
	Cornelius Enterprises, Inc. t/a Little Spot Tavern Somerdale	12-06-95	Bar	Reopened

continued on page 14

taxation seizures - continued from page 13

County	Name/Address	Seizure Date	Business Type	Status
Cape May	Lin-Tee, Inc. t/a Seasons Restaurant Wildwood	12-18-95	Restaurant/Bar	Open; Liquor License Seized
Gloucester	Scoops Liquor Store, Inc. Woodbury	10-18-95	Liquor Store	Liquor License Seized (Business Closed Previously)
	Buoncuore, Concetta Sewell	10-18-95	N/A (Individual)	Motor Vehicle Returned
	Allenham, Inc. t/a Kentucky Fried Chicken Williamstown	11-30-95	Fast Food Restaurant	Closed
	Deptford Auto Parts, Inc. Deptford	12-12-95	Junkyard	Open; Motor Vehicle Seized
Middlesex	Gaur International, Inc. t/a Douglass Mart Liquors New Brunswick	10-02-95	Liquor Store	Reopened
	Comet Electric, Inc. North Brunswick	12-05-95	Electrical Contractor	Closed
	Edison Stationers & Office Supply, Inc. Edison	12-07-95	Stationery Store	Closed
	K&P, Inc. t/a Perri's Liquors Metuchen	12-11-95	Liquor Store	Open
Morris	Acquisition 62, Inc. t/a Anthony's Restaurant Randolph	11-08-95	Restaurant	Closed; Liquor License Seized
Ocean	Augustino, Richard t/a Computer Support & Instruction Beachwood	11-15-95	Computer Sales & Repair	Reopened
	Fujiyama Japanese Restaurant, Inc. Lakewood	11-29-95	Restaurant	Closed
Salem	Roberta, Inc. t/a The Grove Penns Grove	12-13-95	Bar	Liquor License Seized (Business Closed Previously)
Somerset	Kirn, Inc. Green Brook	11-27-95	Restaurant	Closed; Liquor License Seized
Sussex	Demicks Incorporated t/a Minuteman Press Sparta	11-20-95	Printing, Copying	Bankruptcy
Union	Garcez, Ubiratan t/a Junior's Exxon Cranford	12-12-95	Car Repair	Closed

Division of Taxation Auctions (October – December 1995)

County	Name/Address	Auction Date	Business Type
Burlington	Bang, Charney t/a Classic Video Mt. Laurel	11-21-95	Video Store
Camden	Three Star Development Group, Inc. t/a Newstop Voorhees	10-30-95	Newsstand
	Spencer Caribbean Inn, Inc. Camden	12-15-95	Liquor License
Gloucester	Iona Lake Inn, Inc. Franklin Township	10-19-95	Liquor License
Hudson	Pona, Michael & Raymond t/a Pona's Auto & Truck Repair Bayonne	12-11-95	Auto Body Repair
Mercer	Sung, Miyon t/a Classic Video East Windsor	11-21-95	Video Store
Monmouth	Labrador Lounge, Inc. Belmar	11-15-95	Restaurant
Somerset	Bang, Charney t/a Classic Video Hillsborough	11-21-95	Video Store

tax briefs - from page 12

Mission sales tax exemption cards are issued for official purposes only and for the sole benefit of the mission identified on the face of the card. Each mission may designate two employees to make official purchases for the mission. Mission cards may not be used by other mission employees. Additionally, the agent may not use a mission card for personal purchases. All purchases must be in the name of the mission and paid for by mission check or credit card.

Mission exemption from hotel taxes is limited to official mission uses. The mission must make the reservations and pay for the accommodations by mission check or credit card using official funds.

Individuals should use their personal tax exemption cards for exemption from hotel room taxes. Personal exemption from hotel room taxes is valid only for members of the bearer's immediate family.

The Department of State takes seriously the improper use of tax exemption cards. In instances where an individual attempts to gain privileges for which he/she is not entitled or for a private business or other commercially-related purposes, the Department of State will revoke the card and would be required to review the individual's continued acceptance in diplomatic status. Misuse of a mission card will result in that card being withdrawn and the requirement that the mission designate another employee as agent.

Questions concerning the use of the Department of State tax exemption cards should be directed to OFM at (212) 826-4500 or (202) 895-3563.

Transfer of Motor Vehicle Subject to Lien — The Division responded to an inquiry regarding the sales tax treatment of the following situation: A repair facility repaired the motor vehicle of a customer who failed to pay the bill. The facility then billed for storage charges which were also not paid. After repeated attempts to collect from the customer, the facility obtained title to the motor vehicle in order to satisfy its mechanic's lien.

continued on page 16

tax briefs - from page 15

The repair and storage of the customer's motor vehicle were taxable services. N.J.S.A. 54:32B-3(b)(2) & (3). Thus, as the instructions for the Sales and Use Tax Returns state, the repair shop was obligated to pay the sales tax due at the end of the month or quarter in which the taxable services were rendered, even if it had not yet collected the tax from the customer. N.J.S.A. 54:32B-18.

When the repair shop receives title to the customer's motor vehicle to satisfy its mechanic's lien, the motor vehicle, rather than cash, is viewed as the customer's payment for the repair and storage charges. In most cases the value of the motor vehicle will exceed the 6% sales tax liability on the taxable repairs or storage which the mechanic should have paid to the State at the end of each month or quarter during which the taxable services were completed. See generally N.J.S.A. 18:24-23.

Since the transfer of title of the motor vehicle was carried out to satisfy the lien and not in a regular sales transaction, the repair shop's acquisition of title to the motor vehicle is not deemed a taxable transaction.

Motor Vehicle Equipment Purchases by Disabled Veterans From Funds Provided by U.S. Department of Veterans Affairs—A taxpayer wrote to the Division of Taxation inquiring about a refund of a portion of the sales tax paid on the purchase of a new motor vehicle attributable to a payment provided by the U.S. Department of Veterans Affairs pursuant to Federal law.

Federal law at 38 U.S.C.S. 1902 provides for payment by the U.S. Department of Veterans Affairs of authorized amounts for "necessary automotive adaptive equipment" to allow a service-connected veteran with anatomical loss or permanent loss of use of an extremity to safely operate his motor vehicle. The taxpayer had received authorization and payment by check made directly to him for such "necessary automotive adaptive equipment."

The Division advised that exemption from sales tax is provided to the "United States of America and any of its agencies and instrumentalities, insofar as it is immune from taxation where it is the purchaser, user or consumer..." New Jersey Sales and Use Tax Act N.J.S.A. 54:32B-9(a)(2). The Department of Veterans Affairs is an agency of the United States. However, the Federal government is only immune from State taxation when it is the direct payer and purchaser and legal incidence of the tax falls on the government, not merely the economic burden.

With regard to the taxpayer's purchase, the Federal government is not the direct purchaser, user or consumer of the vehicle or its equipment and did not make payment directly to the vehicle dealer, therefore, it is not a tax exempt U.S. Government purchase. Federal payments made to an individual, regardless of whether they are used for a specific Federally authorized purpose, and subsequently applied to a taxable purchase do not result in a tax exempt government purchase but rather a fully taxable purchase made by the nonexempt recipient of the Federal payments.

Due to the above, the Division of Taxation denied taxpayer's request for a sales tax refund on a portion of his vehicle purchase.

Use of Motor Vehicle Parts — The Division received an inquiry concerning the sales and use tax consequences when a motor vehicle dealership performs repairs for a customer free of charge for customer relations purposes. There is no obligation to perform the service under a service contract or warranty agreement.

Under such circumstances, use tax is due from the dealership on the parts since they are withdrawn from the sales inventory. Since the service is provided by the dealership for no consideration, the dealership is not required to self-assess use tax on the value of labor used in the repair. See N.J.S.A. 54:32B-3(b).

Rental Car Repair — The Division replied to an inquiry concerning the taxability of auto body repair work performed on vehicles belonging to a rental agency.

Repairs made to vehicles used exclusively for rental purposes are exempt under the Sales and Use Tax Act. N.J.S.A. 54:32B-2(e)(1). The rental agency must issue a Resale Certificate (Form ST-3) to the repair shop in order to claim the exemption on labor and parts.

Embroidery Services — If an article of clothing is embroidered or monogrammed prior to its sale to the customer, the embroidery or monogram is considered part of the resale of the item. The retail

tax briefs - from page 16

sale of embroidered or monogrammed clothing is exempt from sales tax; the sales of embroidered or monogrammed accessories such as duffel bags, blankets etc. are subject to tax.

If a customer brings in an article of clothing or other property to be embroidered or monogrammed, the charge to embroider/monogram is subject to tax under N.J.S.A. 54:32B-3(b)(1).

The sale of clothing with embroidery/monogram is exempt from tax if the clothing is embroidered/monogrammed prior to the sale to the customer. For example, a shirt costs \$10.00 and you can have initials embroidered on the pocket for \$2.50; the customer pays \$12.50 for the completed article, which is exempt from tax. □

In Our Courts

Gross Income Tax

Sale of Partnership Interest –
Koch v. Director, Div. of Taxation
(No. 003892-94, Tax Ct., 1994).

The Division of Taxation determined that the Kochs had a gross income tax deficiency for tax year 1988. Mr. Koch had received income from the sale of a partnership interest. On their 1988 joint New Jersey return, the Kochs claimed that the income from the sale of the interest was \$50,000. The Division of Taxation determined that the gain was \$268,161. Mr. Koch's lower figure resulted from three factors: (1) he excluded income "received" through a release of indebtedness; (2) he did not lower his basis in the property for partnership losses that he had taken on his Federal income tax

returns but not on his New Jersey returns; and (3) he subtracted the portion of the gain that, for Federal income tax, was characterized as recapture of depreciation.

On the issue of the release of indebtedness, the taxpayer had argued that the release amount was not taxable income because discharge of indebtedness is not a category of income subject to tax under the gross income tax law. The Court rejected this line of reasoning and found that the income was not income from the discharge of indebtedness. The Court emphasized that, in Koch's situation, the debt was released at the time of the sale of the partnership interest and the income was includable as part of the amount received from the sale.

On the issue of whether the basis was to be adjusted down for the losses that were taken Federally, the Court explained that Mr. Koch was arguing for the application of the tax benefit rule. The Court rejected that argument and held that the Federal adjusted basis must be used, as required by the New Jersey income tax statutes.

On the depreciation recapture issue, the Court explained that it is irrelevant that the recapture portion is characterized as recapture depreciation for Federal income tax purposes. The Court held that the recapture portion, like the other income at issue, was includable in the New Jersey income subject to tax. The Division of Taxation assessment was affirmed.

Disposition of Partnership Income –

Schiff v. Director, Division of Taxation, Tax Court No. 000625-94, decided October 31, 1995.

The plaintiffs, the Schiffs, sought review of a Division of Taxation determination of a gross income tax deficiency for tax year 1988 for \$178,593.75, plus penalties and interest. The facts were not in issue. The main issue in the case concerned disposition of partnership property and whether the taxpayers were required to use Federal adjusted basis for determining the amount of gain or loss for New Jersey income tax purposes.

Mr. Schiff had two limited partnership interests that held real estate parcels which, in 1988, were transferred to the mortgage holders, in lieu of foreclosure. During 1988, after the transfers, the partnerships ceased operations.

On their 1988 Federal income tax return, the plaintiffs reported capital gains of \$3,086,111, composed of their distributive shares of the gains attributable to the "foreclosures" on the partnerships' real estate. The Schiffs, however, reported a gain of zero on their 1988 New Jersey gross income tax return. The Division of Taxation determined that the Schiffs should have reported the same amount of gain for New Jersey income tax as they did for Federal income tax.

The Schiffs challenged the Division's determination on two grounds. The first was that they should not be required to use Federal adjusted basis when, for New Jersey tax purposes, they had been unable to use the partnership losses because of the prohibition

continued on page 18

in our courts - from page 17

against netting of intercategory gains and losses. The other ground was that their gain realized through the transfers of the real estate was offset by capital losses realized on the disposition of Mr. Schiff's partnership interests.

The Tax Court held against the taxpayers on both issues. On the first issue, the Court explained that the inability to deduct losses because of the prohibition of N.J.S.A. 54A:5-2 against intercategory netting, is irrelevant to the application of N.J.S.A. 54A:5-1(c). Section 5-1(c) mandates the use of Federal income tax basis.

On the second issue, the Court explained that there were two taxable events. One was the disposition of the interest in the partnership, which produced no gain or loss. The other taxable event was the capital gain realized upon the transfers in lieu of foreclosure. The taxpayers were required to calculate the gain by using Federal adjusted basis.

The case also involved an issue concerning whether the Division of Taxation's Notice of Deficiency was timely mailed to the taxpayers. The gross income tax law requires that tax must be assessed within three years after the return is filed. The taxpayers' return was filed on Saturday, April 15, 1989. The Division of Taxation's Notice of Deficiency had a private postage meter postmark of April 17, 1992.

The Court held that the notice was timely. The Court stated that, under N.J.S.A. 54A:9-11(c), since the Schiffs' return had been mailed (filed) on a Saturday, it was deemed to have been filed on April 17, 1989. Based on an

affidavit by a U.S. Postal Service employee, the Court determined that the private postmark proved that the Division mailed its notice on April 17, 1992, which was within the required three year time limit. The assessment was upheld.

Net Gain from Disposition of Property; Credit for Taxes Paid to Another Jurisdiction – *Estate of Guzzardi v. Director, Division of Taxation*, No. 007125-94 (Tax Ct., decided December 6, 1995).

Taxpayer sought to offset an installment sale gain with a capital loss carryover from a previous year allowed for Federal purposes. Taxpayer also sought to claim credit on a 1988 resident return for taxes paid to Pennsylvania on a gain that was taxable in New Jersey in 1988 but which was taxed in Pennsylvania in 1981.

The Court held that the gain could not be offset by a loss carried over from a previous year. This is because, while N.J.S.A. 54A:5-1c provides that net gains from disposition of property are to be determined according to the method allowed for Federal purposes, N.J.S.A. 54A:5-2 makes clear that only losses incurred during the taxable year may be deductible from gains in the same category of income, incurred in that same year.

The Court also held that taxpayer could not claim credit on a 1988 return for taxes paid to Pennsylvania in 1981. The resident credit is allowed only when the double taxation by New Jersey and another state occurs in the same tax year.

Local Property Tax

Exempt Status of Nonprofit Organization – *Salt and Light Company, Inc., Plaintiff v. Mount Holly Township, Defendant*, decided November 8, 1995; Tax Court of New Jersey; Docket 000413-95 et al.

Salt and Light Company, a housing and counseling service provider to the homeless, appealed Burlington County Tax Board's affirmation of Mount Holly Township's denial of its property tax exempt status as a nonprofit, charitable organization to the New Jersey Tax Court. Per the municipality, Salt and Light Co. was a lucrative business compensated for their services by various government agencies and by tenant rents and was ineligible for property tax exemption as such. The township's decision was based on the idea that the essential characteristic of a charity is its providing of services the government otherwise would. Since about two-thirds of the homeless clients got government aid which was then passed on to Salt and Light, the government, not the company, was the true charitable provider. Also private motels/hotels similarly compensated for lodging the indigent were not tax exempt. Salt and Light countered that its self-help programs, which included assistance in getting job training, education, child care, and medical services, were not comparable to government subsidized private motel/hotel living arrangements. Also, the fees for Salt and Light's services were less than charged at traditional homeless shelters, rents were below market and their cash balance, atypical that year, was reinvested in the exempt purposes of the organization.

continued on page 19

in our courts - from page 18

In its analysis, the Tax Court stated there was no definitive authority in New Jersey as to government payments' singular effect on charitable purpose standing. But under N.J.S.A. 54:4-3.6 partial support by fees received from or on behalf of the beneficiaries of a charity and put to charitable use did not invalidate exemption. The Court reasoned that the statute did not limit the fee amount, other than to require it be partial, and therefore Salt and Light's two-thirds government financing was not disqualifying. The Court in its review of case law acknowledged that there was support for denying charitable exemption to government funded organizations and cited *Presbyterian Homes v. Division of Tax Appeals* and *Weymouth Township v. Memorial Park Family Practice Center*. However, in reversing the Tax Board's denial of Salt and Light's exempt status for 1995, the Court relied, among others, on *Catholic Charities of the Diocese of Camden v. Pleasantville* where exemption was granted and which was alike in that the majority of its clients had received government monies. The Court differentiated between operations like the Memorial Park Center's and Salt and Light Company's, noting that the company was not just a conduit for government subsidies — that while not totally relieving the government's responsibility to the homeless, its lower cost extended services lessened it. Noted too was that of Salt and Light's one-third self-supported clients, none was evicted for nonpayment of rents, as distinguished from nonexempt for-profit housing providers who didn't accept or who evicted individuals without funds. Therefore,

Salt and Light's purpose was charitable. The Court reaffirmed as well that nonprofit status did not require operating at a loss, that it was not negated by excess income nor an increased cash balance in a single fiscal year and concluded in favor of exemption. Also addressed by the Court in this case was a procedural error relative to the County Tax Board's application of omitted assessments.

Appeal of Assessments — *Township of Monroe v. Local Finance Board*, DCA Appellate Division; decided December 19, 1995, Docket #A-2652-94T3.

Held: Avenue of appeal for property tax assessments is through the County Tax Board and the various courts, not the local governing body. Monroe Township's governing body improperly circumvented the statutory assessment appeal procedure provided under N.J.S.A. 54:3-21 by attempting to abate some of a retirement community's condominium owners property taxes for 1994 who failed to pursue their right of appeal based on the alleged unfulfilled promise of the municipal tax assessor to collectively reduce their property values. Taxpayers' right of appeal was lost through their own inaction; therefore, an extension of the appeal deadline was not warranted. N.J.S.A. 54:4-99 and 100, the authority under which the township offered abatement and which was correctly interpreted by the State Divisions of Taxation and of Local Government Services to apply to illegal assessments and past due taxes, was not applicable in this case. Further, taxes which are too high or low, i.e., discriminatory, are not illegal in the context of the abatement

statute. The Local Finance Board, Division of Local Finance, Department of Community Affairs, acting in its capacity as financial regulator of local governments, exercised appropriate judgment in upholding the Divisions' joint order for withholding abatement. The Township of Monroe has filed a petition for certiorari with the New Jersey Supreme Court.

Sales and Use Tax Exemption for Commercial Fishing Head Boats — *Helper v. Director, Division of Taxation*, No. 011584-93 (Tax Court, decided October 17, 1995).

The Court determined that plaintiff's purchase of a boat in Texas was not exempt from New Jersey use tax because it satisfied only one of the requirements for exemption under N.J.S.A. 54:32B-8.12. Because the boat owner's customers were usually groups, and generally he did not charge individuals "by the head," the boat was a "charter boat," not a "head boat." In addition, because the boat was used primarily by divers, sport fishing was not its primary use. □

In Our Legislature

Corporation Business Tax Interest Owed to Stockholders — P.L. 1995, c.418 (signed into law on January 10, 1996) eliminates the Corporation Business Tax limitation on the deduction of interest owed to certain related parties. This legislation is effective immediately and applies to fiscal or calendar accounting years ending after its enactment.

continued on page 20

in our legislature - from pg. 19

Gross Income Tax

Set-off for Expenses Paid by Medicaid — P.L. 1995, c.290 (signed into law on December 22, 1995) permits income tax refunds and homestead rebates to be set-off for reimbursements due to Medicaid for medical expenses pursuant to a child support order when the taxpayer has received payment from a third party for the cost of the health care services. This legislation is effective immediately and applies to medical payments received by the taxpayer on or after April 1, 1995.

Checkoff for "Battleship New Jersey Memorial Fund" — P.L. 1995, c.299 (signed into law on December 22, 1995) establishes the Battleship New Jersey Memorial Fund and provides taxpayers with an opportunity to contribute to the Fund by designating a portion of their refund or by making a donation at the time of filing their New Jersey income tax returns. This legislation is effective for tax years beginning on and after January 1, 1996.

Litter Control Tax

Tax Extended — P.L. 1995, c.301 (signed into law on January 3, 1996) extends the expiration date of the tax on the sale of litter-generating products to December 30, 2000. This legislation is effective immediately.

Local Property Tax

General Tax Rate — P.L. 1995, c.345 (signed into law January 5, 1996) permits municipalities to require county tax boards to strike general tax rates rounded up to the nearest half-penny. This takes effect January 1 next following enactment.

Deduction Form Distribution — P.L. 1995, c.259 (signed into law November 13, 1995) originally included provisions transferring responsibility for the administration of the senior citizen/disabled property tax deduction and veterans' property tax deduction to the Division of Taxation. Governor Whitman vetoed this provision and recommended that the Division instead assume responsibility for generating, printing and mailing the forms used in the administration of these deductions. The Governor's recommendation, which was adopted, will not become effective until the 1997 tax year. Municipalities will continue to process the applications and administer the programs. For clarification purposes, it should be noted the requirement that property owners be notified annually of their assessment as provided in P.L. 1991, c.75 remains in place. Because of inadvertent bracket omissions in Chapter 259, some people erroneously believe the annual assessment notice is no longer necessary. This law also relaxes certain State imposed mandates and revises and repeals parts of statutory law.

Contaminated Property Tax Exemption — P.L. 1995, c.413 (signed into law January 10, 1996) cited as the "Environmental Opportunity Zone Act" provides for the ten year exemption of property taxes on certain contaminated property. A municipal ordinance must be adopted on the parcel of real property for which exemption is sought. The property must be in need of a remediation due to a discharge or threatened discharge of a contaminant, and listed in the most recent Department of Environmental Protection

publication of known hazardous discharge sites.

The approved exemption must be evidenced by a financial agreement which provides that the applicant pay to the municipality an amount in lieu of real property taxes. The in lieu of property tax amount is predicated on a schedule of increasing percentages of the amount of tax otherwise due. The assessed value of the property at the time the exemption is approved by the assessor is to be used in calculating this amount.

Farmland Assessment Act Amended — P.L. 1995, c.276 (signed into law December 15, 1995) supplements and amends the Farmland Assessment Act (P.L. 1964, c.48). Primarily, the definition of land devoted to an agricultural use was amended to include the boarding, rehabilitating or training of livestock. The fees received from these uses may be included to meet income requirements of the Act where the land used for such purposes is contiguous to land otherwise qualifying for farmland assessment. Land under seasonal farm markets selling predominately agricultural products, and land under seasonal agricultural labor housing is also deemed to be devoted to an agricultural use in this law. A provision of the law also exempts the owner of the land from the income requirements where the failure is attributable due to injury, illness or death of the person responsible for producing the income. The owner must request the exemption and provide a physician's statement or death certificate, as the case may warrant.

continued on page 21

in our legislature - from page 20

Amended Veteran Property Tax Benefit Dates — P.L. 1995, c.406 (signed into law January 10, 1996) revises and adopts certain active service dates for veterans' property tax deductions and exemptions.

Changes affect the termination date of the Lebanon Peacekeeping Mission and the beginning date of the Grenada Peacekeeping Mission. A list of all missions and dates either formally adopted or revised by the enacted statute follows.

Mission: Operation "Desert Shield/Desert Storm"

Inception: August 2, 1990

Termination: Ongoing

Mission: Panama Peacekeeping

Inception: December 20, 1989

Termination: January 31, 1990

Mission: Lebanon Peacekeeping

Inception: September 26, 1982
(Extended from Feb. 26, 1984)

Termination: December 1, 1987

Mission: Grenada Peacekeeping

Inception: October 23, 1983
(Extended from October 25, 1983)

Termination: November 21, 1983

World War I and World War II dates, and the Vietnam and Korean conflict dates have not been changed by this act which takes effect on the enactment date of January 10, 1996.

Miscellaneous

New Jersey Business Corporation Act — P.L. 1995, c.279 (signed into law on December 15, 1995) allows the merger or consolidation of corporations with certain other business entities including partner-

ships, limited partnerships and limited liability companies. Such mergers will require obtaining tax clearance certificates. This legislation is effective immediately, except that the sections permitting corporations to merge or consolidate with other business entities remain inoperative until 90 days after enactment.

New Capital Sources Partnership

— P.L. 1995, c.293 (signed into law on December 22, 1995) establishes a "New Capital Sources Partnership" to encourage, promote and support small capital business development in this State. This legislation is effective on the 60th day following enactment.

Penalties for Selling Tobacco Products to Minors

— P.L. 1995, c.304 (signed into law on January 5, 1996) increases penalties for the sale and distribution of tobacco to a minor under the age of 18 years and gives the Division the authority to suspend or revoke the license of a retail dealer. This legislation is effective 90 days after enactment.

Sale of Tobacco Products

— P.L. 1995, c.320 (signed into law on January 5, 1996) authorizes the Commissioner of Health to regulate the sale of tobacco products to minors; increases the licensing fee for retail tobacco dealers and vending machines, and dedicates revenues to local enforcement. The legislation also requires the Division to provide the Commissioner of Health with information about retail tobacco licensees necessary to carry out its enforcement responsibilities under the act. This legislation is effective January 1, 1996.

Child Support Enforcement — P.L.

1995, c.322 (signed into law on January 5, 1996) allows county probation departments and the State IV-D agency to receive information contained in the records of the Division of Taxation concerning reputed fathers and child support obligors. The State Tax Uniform Procedure Law was amended to allow release of information relating to an obligor's sources of income or assets. This legislation is effective immediately.

Unclaimed Property — P.L. 1995, c.361 (signed into law on January 5, 1996) amends the Unclaimed Property Act concerning agreements to recover property for a fee. Agreements entered into before the property is presumed abandoned are valid only if the fee or compensation agreed upon is not more than 35% of the value; the agreement is in writing, signed by the apparent owner, and clearly sets forth the nature and value of the property after the fee or compensation has been deducted. Agreements made within 24 months after the date that property is paid or delivered to the administrator are void and unenforceable. Agreements entered into any time after the 24 month period are valid only if the fee or compensation agreed upon is not more than 20% of the value of the property recovered; the agreement is in writing; and if certain other conditions are met. This legislation is effective immediately.

Foreign Professional Legal Corporations — P.L.

1995, c.375 (signed into law on January 5, 1996) permits foreign professional legal corporations to transact business within New Jersey. Such a corporation may render legal

continued on page 22

in our legislature - from pg. 21

services of the type provided by attorneys-at-law in this State provided that it secures a certificate of authority from the Secretary of State and every shareholder or employee providing legal services here is an attorney-at-law licensed and eligible to practice in New Jersey under the Rules of the Supreme Court. This legislation is effective 120 days after enactment.

Sales and Use Tax

Exemption for Radio and Television Broadcast Production

Equipment — P.L. 1995, c.317 (signed into law on January 5, 1996) amends the Sales and Use Tax Act to exempt the sale of machinery, apparatus or equipment, other than that used in constructing or operating towers, to a commercial broadcaster operating under a broadcasting license issued by the Federal Communications Commission for use or consumption directly and primarily in the production or transmission of radio or television broadcasts. This legislation is effective April 1, 1996.

Urban Enterprise Zones

New Zones Designated — P.L. 1995, c.382 (signed into law on January 9, 1996) approved the designation of seven additional urban enterprise zones. The new enterprise zones will be located in East Orange, Guttenberg, Hillside, Irvington, North Bergen, Pemberton Township and West New York. The total number of zones will increase to 27 covering 29 municipalities. This legislation is effective on April 1, 1996. □

tax calendar

april

	SUN.	MON.	TUE.	WED.	THU.	FRI.	SAT.
		1 ☞	2	3	4	5	6
1	7	8	9	10 ☞	11	12	13
9	14	15 ☞	16	17	18	19	20
9	21	22 ☞	23	24	25 ☞	26	27
6	28	29 ☞	30 ☞				

April 1

NJ-500 Gross Income Tax—
Employer's semi-monthly return

April 10

CWIP-1 Cigarette Tax—Informational report by wholesalers

CWIP-2 Cigarette Tax—Informational report by wholesalers

April 15

CBT-100/ Corporation Business Tax—
CBT-100S Annual return for accounting period ending December 31

CBT-150 Corporation Business Tax—
Installment payment of

continued

April 15 - continued

estimated tax for 4th, 6th, 9th or 12th month of current tax year

HR-1040 Homestead Property Tax Rebate— Application

NJ-500 Gross Income Tax—
Employer's semi-monthly, monthly and quarterly returns

NJ-1040 Gross Income Tax— Resident return for calendar year filers

NJ-1040NR Gross Income Tax—
Nonresident return for calendar year filers

NJ-1041 Gross Income Tax— Fiduciary return for calendar year filers

NJ-1065 Gross Income Tax—
Partnership return for calendar year filers

NJ-1040ES Gross Income Tax— Declaration of Estimated Tax, Voucher 1 for calendar year filers

April 22

CR-1 & CNR-1 Cigarette Tax—Monthly report of cigarettes sold or used by distributors, manufacturers, representatives and consumers

GA-1D Motor Fuels Tax—Distributor's monthly report of gallons of fuel sold or used

GA-1J Motor Fuels Tax—Jobber's monthly report of gallons of fuel

continued

April 22 - continued

MFT-10 Motor Fuels Tax—Monthly report by seller-user of special fuels for sales and/or use in the previous month

SCC-5 Spill Compensation and Control Tax—Monthly return

ST-20 New Jersey/New York Combined State Sales and Use Tax—Quarterly return

ST-50 Sales and Use Tax—Quarterly return

ST-250 Combined Atlantic City Luxury Tax/State Sales Tax— Monthly return

ST-350 Cape May County Tourism Sales Tax—Monthly return

ST-450 Sales and Use Tax—Salem County—Quarterly Return

TP-20 Tobacco Products Whole-sale Sales and Use Tax— Monthly return

UZ-50 Combined State Sales Tax/ Urban Enterprise Zone Sales Tax—Monthly return

April 25

PPT-40 Petroleum Products Gross Receipts Tax—Quarterly return

April 30

NJ-500 Gross Income Tax—
Employer's semi-monthly return

may

	SUN.	MON.	TUE.	WED.	THU.	FRI.	SAT.
1				1	2	3	4
9	5	6	7	8	9	10	11
9	12	13	14	15	16	17	18
6	19	20	21	22	23	24	25
	26	27	28	29	30	31	

May 10

CWIP-1 Cigarette Tax—Informational report by wholesalers

CWIP-2 Cigarette Tax—Informational report by wholesalers

May 15

CBT-100 Corporation Business Tax—Annual return for accounting period ending January 31

CBT-150 Corporation Business Tax—Installment payment of

continued

May 15 - continued

NJ-500

estimated tax for 4th, 6th, 9th or 12th month of current tax year

Gross Income Tax—Employer's semi-monthly and monthly returns

May 20

CR-1 & CNR-1 Cigarette Tax—Monthly report of cigarettes sold or used by distributors, manufacturers, representatives and consumers

GA-1D Motor Fuels Tax—Distributor's monthly report of gallons of fuel sold or used

GA-1J Motor Fuels Tax—Jobber's monthly report of gallons of fuel

MFT-10 Motor Fuels Tax—Monthly report by seller-user of special fuels for sales and/or use in the previous month

SCC-5 Spill Compensation and Control Tax—Monthly return

ST-21 New Jersey/New York Combined State Sales and Use Tax—Monthly return

continued

May 20 - continued

ST-51 Sales and Use Tax—Monthly return

ST-250 Combined Atlantic City Luxury Tax/State Sales Tax—Monthly return

ST-350 Cape May County Tourism Sales Tax—Monthly return

ST-451 Sales and Use Tax—Salem County—Monthly Return

TP-20 Tobacco Products Whole-sale Sales and Use Tax—Monthly return

UZ-50 Combined State Sales Tax/Urban Enterprise Zone Sales Tax—Monthly return

May 28

PPT-41 Petroleum Products Gross Receipts Tax—Monthly return

May 31

NJ-500 Gross Income Tax—Employer's semi-monthly return

june

	SUN.	MON.	TUE.	WED.	THU.	FRI.	SAT.
1							1
9	2	3	4	5	6	7	8
9	9	10	11	12	13	14	15
6	16	17	18	19	20	21	22
	23	24	25	26	27	28	29

June 10

CWIP-1 Cigarette Tax—Informational report by wholesalers

CWIP-2 Cigarette Tax—Informational report by wholesalers

June 17

CBT-100 Corporation Business Tax—Annual return for accounting period ending February 29

continued

June 17 - continued

CBT-150 Corporation Business Tax—Installment payment of estimated tax for 4th, 6th, 9th or 12th month of current tax year

NJ-500 Gross Income Tax—Employer's semi-monthly and monthly returns

June 20

CR-1 & CNR-1 Cigarette Tax—Monthly report of cigarettes sold or used by distributors, manufacturers, representatives and consumers

GA-1D Motor Fuels Tax—Distributor's monthly report of gallons of fuel sold or used

GA-1J Motor Fuels Tax—Jobber's monthly report of gallons of fuel

MFT-10 Motor Fuels Tax—Monthly report by seller-user of special fuels for sales and/or use in the previous month

SCC-5 Spill Compensation and Control Tax—Monthly return

continued

June 20 - continued

ST-21 New Jersey/New York Combined State Sales and Use Tax—Monthly return

ST-51 Sales and Use Tax—Monthly return

ST-250 Combined Atlantic City Luxury Tax/State Sales Tax—Monthly return

ST-350 Cape May County Tourism Sales Tax—Monthly return

ST-451 Sales and Use Tax—Salem County—Monthly Return

TP-20 Tobacco Products Whole-sale Sales and Use Tax—Monthly return

UZ-50 Combined State Sales Tax/Urban Enterprise Zone Sales Tax—Monthly return

June 25

PPT-41 Petroleum Products Gross Receipts Tax—Monthly return

from the director's desk

New Jersey Taxation Home Page

The Division is now online! World Wide Web users may now find answers to their tax questions by pointing their web browser at <http://www.state.nj.us>. At the New Jersey State Home Page, click on state agencies until you reach the Division of Taxation. Taxation's home page includes:

- Instructions for resident and nonresident returns
- Tax Topic Bulletins on income tax and sales and use tax
- Order forms for mail delivery
- Answers to frequently asked income tax questions
- New Jersey *State Tax News*
- Information about the Division including Organization chart with phone numbers, taxes collected by the Division and a description of Division activities

Many Tax Topic bulletins and form instructions may be downloaded directly by taxpayers. Future plans include the placement of certain forms on the home page so they may also be downloaded as needed. If you have suggestions about what else should be part of the Division's home page, please send your comments to feedback@state.nj.us.